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Dated: November 21, 2002

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(Shawn P. Foley)

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12/6/02
Docket No.: OCIRS 3.9-060 CONT
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Tumer et al.

Application No.: 09/721,047

Group Art Unit: 1638

Filed: November 22, 2000

Examiner: Georgia L. Helmer

For: TRANSGENIC PLANTS PRODUCING A PAP
II PROTEIN

RESPONSE TO RESTRICTION REQUIREMENT

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Commissioner for Patents
Washington, DC 20231

TECH CENTER 1600/2900

Dear Sir:

This communication is in response to the Office Action mailed July 15, 2002.

In response to the requirement for restriction, Applicants hereby elect Group I, corresponding to claims 1-12, 18-24 and 32, with traverse. For example, the Examiner has alleged that the invention of Groups I-III are "unrelated." The claims of Group I are drawn to recombinant plant cells containing a DNA molecule comprising a sequence encoding a PAP II protein, as well as DNAs comprising sequences encoding various PAP II proteins. The claims of Group II are directed to transgenic plants that express DNA molecules encoding PAP II proteins. Such transgenic plants will contain various of the plant cells encompassed within claims of Group I (including some of the DNAs as well). Thus, it would certainly appear that the claims of Groups I and II are related. Accordingly, Applicants respectfully request modification of the restriction requirement, so as to combine Groups I and II together.

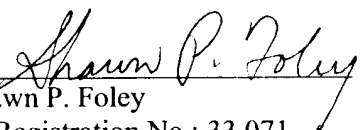
In response to the election of species requirement, Applicants hereby elect item (b), which is PAP II (1-285). This protein is disclosed in the specification as SEQ ID NO:3. Applicants respectfully traverse the election of species requirement as well, particularly to the extent that it is taken in the context of Applicants' election of Group I. Applicants respectfully

point out that her three prior U.S. patents directed to PAP (and which are cited as items AA, AB and AC on sheet 1 of the IDS filed on May 21, 2001) claim many different PAP mutants. No such election of species was ever issued in those corresponding patent applications. Moreover, the proteins identified as (a)-(dd) are not "inventions" for the purposes of Group I; in fact, they are not even positively recited elements of the elected claims. Accordingly, reconsideration and withdrawal of the election of species requirement are respectfully requested.

The Examiner is cordially invited to contact the undersigned if she has any questions.

Dated: November 21, 2002

Respectfully submitted,

By 
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